



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

GARLAND COMMUNITY HOSPITAL

Respondent Name

LIBERTY MUTUAL FIRE INSURANCE COMPANY

MFDR Tracking Number

M4-99-7866-01

Carrier's Austin Representative

Box Number 1

MFDR Date Received

July 23, 1998

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor did not submit a position statement for consideration in this review.

Amount in Dispute: \$47,986.61

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The insurance carrier did not submit a response for consideration in this review.

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
November 21, 1997 to December 3, 1997	Inpatient Hospital Services	\$47,986.61	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.304 sets out requirements regarding notice of medical payment dispute.
2. Former 28 Texas Administrative Code §133.305, effective June 3, 1991, 16 *Texas Register* 2830, sets out the procedures for resolving medical fee disputes.
3. Former 28 Texas Administrative Code §134.401, effective August 1, 1997, 22 *Texas Register* 6264, sets out the fee guidelines for acute care inpatient hospital services.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - F – REDUCTION ACCORDING TO MEDICAL FEE GUIDELINES.

Issues

1. Did the requestor meet the requirements of 28 Texas Administrative Code §133.305(d)(10)?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of the Division's *Acute Care Inpatient Hospital Fee Guideline* at 28 Texas Administrative Code §134.401, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed below.

1. Former 28 Texas Administrative Code §133.305(d)(10), effective June 3, 1991, 16 Texas Register 2830, requires that the request shall include “a summary of the requesting party's position regarding the dispute.” The submitted documentation does not include a summary of the requesting party's position regarding this dispute. The Division concludes that the requestor has not met the requirements of §133.305(d)(10).
2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Further, §134.401(c)(6)(A)(v) states “Audited charges are those charges which remain after a bill review by the insurance carrier has been performed.” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$47,986.61. The Division concludes that the total audited charges exceed \$40,000.
3. 28 Texas Administrative Code §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in §134.401(c)(6). §134.401(c)(6)(A)(ii) states that “This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission.” The Third Court of Appeals' November 13, 2008 opinion held that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” It further states that “independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases.” The requestor did not discuss or submit documentation to support how the disputed services meet the requirements of §134.401(c)(2)(C). The requestor failed to demonstrate that the services in dispute were unusually extensive compared to similar services or admissions. The Division concludes that the requestor has not met the requirements of §134.401(c)(2)(C).
4. 28 Texas Administrative Code §134.401(c)(6) states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services. The requestor did not discuss or submit documentation to support that the disputed services were unusually costly. The requestor did not discuss or provide documentation to support a reasonable comparison between the cost associated with this admission compared to services or admissions. The requestor has not demonstrated that the admission in dispute was unusually costly. The Division therefore concludes that the requestor has not shown that the services in dispute were unusually costly with respect to the requirements of §134.401(c)(6).
5. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated according to the Standard Per Diem Amount as specified in 28 Texas Administrative Code §134.401(c)(1), and any additional reimbursements as provided in §134.401(c)(4), as follows:

- Per 28 Texas Administrative Code §134.401(c)(3)(A)(iii), "If applicable, ICU/CCU days are subtracted from the total LOS and reimbursed the ICU/CCU per diem rate for those specific days of treatment in lieu of the assigned medical/surgical per diem rate." Per §134.401(c)(1), "The workers' compensation standard per diem amounts to be used in calculating the reimbursement for acute care inpatient services are as follows: Medical--\$870; Surgical--\$1,118; Intensive Care Unit (ICU)/Cardiac Care Unit (CCU)--\$1,560." Review of the submitted documentation finds that there were three ICU days. This amount multiplied by \$1,560 totals \$4,680.00.
- Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission." The length of stay was twelve days. This amount less the above three ICU results in an adjusted LOS of nine days. This amount multiplied by the surgical per diem rate of \$1,118.00 totals \$10,062.00.
- 28 Texas Administrative Code §134.401(c)(4)(A), states that "When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278)" Review of the submitted documentation finds that, although the requestor billed items under revenue code 278, no documentation was submitted to establish or support the cost to the hospital of the disputed implantables. For that reason, reimbursement cannot be recommended.
- 28 Texas Administrative Code §134.401(c)(4)(C) states that "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." Review of the submitted documentation finds that, although the requestor billed pharmaceuticals under revenue code 250 in excess of \$250 per dose, no documentation was submitted to establish or support the cost to the hospital of the disputed pharmaceuticals. For that reason, additional reimbursement cannot be recommended.

The total recommended reimbursement for the services in this dispute is \$14,742. This amount less the amount previously paid by the insurance carrier of \$16,291.67 leaves an amount due to the requestor of \$0.00. No additional reimbursement is recommended for the services in dispute.

Conclusion

For the reasons stated above, the Division concludes that the requestor has failed to support that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

	Grayson Richardson	April 4, 2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.